

**FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS**

State Grant Programs

Part 522 Federal Assistance Program Guidance

Chapter 23 Budget Changes in Federal Assistance Grants

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23.1 What is the purpose of this chapter? This chapter provides guidance for making budget changes in nonconstruction grants funded under:

- A. The Sport Fish and Wildlife Restoration Programs,
- B. The State Wildlife Grants Program, and
- C. The Landowner Incentive Program.

23.2 What is the scope of this chapter?

- A. This chapter applies to all Service personnel who administer (concur on or approve) grants funded through the programs listed in section 23.1A through C.
- B. This chapter applies to transfers among separately budgeted programs, projects, functions, or activities (direct-cost categories) for nonconstruction grant agreements.

23.3 What are the authorities for this chapter?

- A. Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777).
- B. Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669).
- C. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Changes (43 CFR 12.70).
- D. Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301).
- E. Department of the Interior and Related Agencies Appropriations Acts for FY 2001 - Land Conservation, Preservation and Infrastructure Improvement ([P.L. 106-291](#)).
- F. Department of the Interior and Related Agencies Appropriations Acts for FY 2002-2005 - State and Tribal Wildlife Grants ([P.L. 107-63](#), [P.L. 108-7](#), [P.L. 108-108](#), and [P.L. 108-447](#)).

23.4 What budget changes must the Service approve?

- A. We must approve transfers among direct-cost categories for nonconstruction grants when:
 - (1) The cumulative changes exceed 10 percent of the total approved budget in the grant agreement, and
 - (2) The Federal share of the grant is greater than \$100,000 (43 CFR 12.70(c)(1)(ii)). We refer to this as the “10-percent rule.”
- B. We must provide prior written approval for any budget change in a grant agreement that results in an increase in the total approved budget (43 CFR 12.70(c)(1)(i)).

23.5 How should the Service address budget changes? All nonconstruction grant agreements should contain a provision that specifically addresses the State’s ability to make transfers among direct-cost categories at any level. Such a provision allows States to make transfers as long as they spend the funds to achieve the grant’s approved fish and wildlife objectives.

- A. Suggested language for the provision is: “This grant is not subject to the requirements of 43 CFR 12.70(c)(1)(ii), the so called “10-percent rule.”

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B. If the State objects to having such a provision in the grant agreement or if there is a compelling reason not to include such language, we do not include the provision in the grant agreement and the procedures in sections 23.6 or 23.7 apply, as appropriate.

23.6 If the grant agreement does not contain a provision addressing budget changes, how should the Service handle requests for such changes during the grant period?

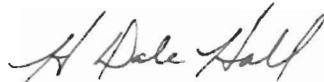
A. When the Federal share of a grant is more than \$100,000, we must provide the State with prior, written permission before it may transfer more than 10 percent of the total approved budget in the grant agreement among direct-cost categories.

B. We should grant permission to the State if, in our judgment, we would have allowed the transfers as a provision in the original grant agreement.

23.7 Does the Service have authority to waive the "10-percent rule" if the State makes transfers of more than 10 percent of the total approved budget without receiving prior authorization? Yes. In the absence of specific language in the grant agreement (section 23.5A) or without receiving prior written permission (section 23.6), we retain the authority to waive, in writing, the prior approval requirement. We may retroactively approve such transfers without regard to whether or not the grant is open or closed. This authority is discretionary and we apply it on a case-by-case basis.

23.8 For grants approved before July 17, 2003 (when the Service first addressed changes in Director's Order 156), how should the Service address requests for a waiver as described in section 23.7 above? For grants approved before July 17, 2003, where the State failed to get our written permission to make a transfer among direct-cost categories, we should grant a waiver in writing if, in our judgment, we would have allowed the transfer as a provision of the original grant agreement.

23.10 Are there exceptions to the guidance in sections 23.7 and 23.8 for nonconstruction grants? Yes. Budget changes involving the transfer of funds allotted for training require our prior written approval unless specifically addressed in the grant agreement (43 CFR 12.70(c)(1)(iii)).



DIRECTOR

MAY 22 2006

Date: